

BILL ANALYSIS

Senate Research Center

S.B. 172
By: Luna
Jurisprudence
6-28-95
Enrolled

BACKGROUND

Currently, persons who grant powers of attorney experience difficulty in obtaining access to their personal financial records.

PURPOSE

As enrolled, S.B. 172 requires attorneys in fact to maintain and make accessible records of all transactions for the principals they represent.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 481, Texas Probate Code (Durable Power of Attorney Act), by adding Section 490A, as follows:

Sec. 490A. ACCOUNTING RECORDS. (a) Requires the attorney in fact or agent of a principal with regard to a class of transactions under a durable power of attorney or statutory durable powers of attorney to maintain appropriate records of each transaction, including an accounting of receipts and disbursements.

(b) Requires the attorney in fact or agent, within the period specified by Subsection (c) of this section, to make the records available, on request, to the principal, the guardian or personal representative of the principal's estate, or any person interested in the principal's estate, or any person interested in the estate for inspection and review. Authorizes the person making the request, if the attorney in fact or agent fails to comply with a request made under this subsection, to file in a court of proper jurisdiction a petition for an order to enforce the request. Authorizes the court to order the attorney or agent to make the records available to the petitioner for inspection and review after notice and hearing.

(c) Requires the attorney in fact or agent to maintain the records for a minimum of four years after the durable power of attorney expires or is revoked by the principal.

SECTION 2. Amends Section 490(a), Texas Probate Code, to set forth the language of a form of a "statutory durable power of attorney."

SECTION 3. Effective date: September 1, 1995. Makes application of this Act prospective.

SECTION 4. Emergency clause.